

1 RICHARD A. MARSHACK, SBN 107291
rmarshack@marshackhays.com
2 D. EDWARD HAYS, SBN 162507
ehays@marshackhays.com
3 LAILA MASUD, SBN 311731
lmasud@marshackhays.com
4 MARSHACK HAYS LLP
870 Roosevelt, Irvine, CA 92620
5 Tel: 949-333-7777

6 Gerald Singleton SBN 208783
gerald@slffirm.com
7 Gary LoCurto, SBN 270372
glocurto@slffirm.com
8 SINGLETON LAW FIRM, APC
450 A Street, 5th Floor
9 San Diego, CA 92101
10 Tel. (619) 771-3473

11 Attorneys for SLF Fire Victim Claimants

12 **UNITED STATES BANKRUPTCY COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**

14 In re	)	Bankruptcy Case: No. 19-30088 (DM)
)	
15 PG&E CORPORATION and	)	Chapter 11
16 PACIFIC GAS AND ELECTRIC)	
COMPANY,	)	(Lead Case) - (jointly Administered)
)	
17 Debtors.	)	OPPOSITION TO WILLIAM B. ABRAMS
	)	MOTION TO DESIGNATE IMPROPERLY
18 <input type="checkbox"/> Affects PG&E Corporation	)	SOLICITED VOTES PURSUANT TO 11
19 <input type="checkbox"/> Affects Pacific Gas and Electric Company	)	U.S.C. §§ 1125(B) AND 1126(E) AND
20 <input checked="" type="checkbox"/> Affects both Debtors	)	BANKRUPTCY RULE 2019; AND
*All papers shall be filed in the Lead Case,)	
No. 19-30088 (DM)	)	JOINDER TO PRELIMINARY
	)	OPPOSITION TO WILLIAM B. ABRAMS
	)	MOTION TO DESIGNATE IMPROPERLY
	)	SOLICITED VOTES PURSUANT TO 11
	)	U.S.C. §1125(B) AND 1126(E) AND
	)	BANKRUPTCY RULE 2019 FILED BY
	)	NUMEROUS WILD FIRE CLAIMANTS
)	
	)	[Re: Docket Nos. 6799, 6798 and 6801]
)	
	)	Date: TBD
	)	Time: TBD (Pacific Time)
	)	Place: United States Bankruptcy Court
	)	Courtroom 17, 16th Floor
	)	San Francisco, CA 94102

1 TO THE COURT, ALL PARTIES, AND ALL ATTORNEYS OF RECORD

2 The Singleton Law Firm, APC ("SLF"), Marshack Hays LLP, and their co-counsel represent
3 approximately 7,000 victims of the 2015 Butte Fire, the 2017 North Bay Fires, and the 2018 Camp
4 Fire ("SLF Fire Victim Claimants"). On April 20, 2020, as Dk. No. 6799, Claimant William B.
5 Abrams ("Abrams") filed a *Motion to Designate Improperly Solicited Votes Pursuant to 11 U.S.C.*
6 *§§ 1125(b) and 1126(e) and Bankruptcy Rule 2019* ("Motion"). On April 20, 2020, as Dk. No.
7 6801, Watts Guerra LLP, attorneys for Numerous Wild Fire Claimants, filed a *Preliminary*
8 *Opposition to the Motion* ("Watts Guerra Opposition"). The SLF Fire Victim Claimants respectfully
9 submit their opposition to the Motion and a joinder to the Watts Guerra Opposition as follows:

10 **OBJECTION**

11 The overriding goal in the voting phase of a confirmation process is to provide the holders
12 and interests with as much relevant, accurate and meaningful information as possible. In furtherance
13 of this goal, claim holders may solicit acceptances or rejections of a debtor's plan. To that end,
14 attorneys commonly provide information as to pros and cons of any plan to ensure that votes are
15 made with all information having been considered. However, courts should not allow a party to
16 circumvent the system by proposing or suggesting an alternative plan which has neither gained court
17 approval nor been subject to adequate disclosure. Not to be dissuaded, Movant has refashioned his
18 disdain for Debtors' Plan by targeting Fire Claimant Professionals as having conflicts and not
19 providing the full picture to fire victims when in reality, nothing is further from the truth. In fact,
20 Movant may be the party providing inaccurate information in an attempt to garner support for a
21 "plan" that is not court-approved and likely subject to sanctions under the very authority cited in the
22 Motion.

23 Section § 1125(b) provides once a disclosure statement has been approved by a bankruptcy
24 court and transmitted to creditors along with a plan or reorganizations, plan acceptances or rejections
25 *can* be solicited. 11 U.S.C. §1125(b). A soliciting party may without prior court approval—(1) offer
26 a narrative, evidence, conclusions, or opinions contrary to that enunciated in the plan or disclosure
27 statement; (2) assert positions, evidence, conclusions, or opinions of relevant matters which are not
28

1 contained in the plan or court-approved disclosure statement; or (3) offer evidence or opinions of an
2 alternative liquidation analysis, since the debtors have a liquidation analysis as part of their
3 disclosure statement. *In re Apex Oil Co.*, 111 B.R. 245, 249 (Bankr. E.D. Mo. 1990). In sum, a
4 soliciting party may react to and present contrary views regarding the court-approved disclosure
5 statement, ***but may not present or suggest an alternative plan which has not been subject to court***
6 ***scrutiny regarding adequacy of disclosure***, provided that such information was not an alternative
7 plan that had not been approved by the court for distribution. *Id.* Separately, Section 1126(e)
8 provides “a court may designate any entity whose acceptance or rejection of such plan was not in
9 good faith, or was not solicited or procured in good faith” 11 U.S.C. § 1126(e). To “designate”
10 means the votes for the claims will not be counted in voting to accept or reject the plan. *Figter Ltd.*
11 *v. Teachers Ins. & Annuity Ass'n of Am. (In re Figter Ltd.)*, 118 F.3d 635, 638 (9th Cir. 1997).

12 Movants “ask” of the court is (1) to designate votes that have been improperly solicited and
13 (2) either restart the voting process free of these improper solicitations or issue a letter from the court
14 asking victims to revote. Per Movant, “[a]t a minimum, the voting process should be redone and this
15 court should seriously consider if the whole plan of reorganization should be abandoned and a new
16 process defined ...” Motion, 2:13-14; 3:25; 8:25. But nothing in the Motion points to any actions
17 taken *prior* to approval and transmittal of the disclosure statement and Plan that would warrant such
18 a drastic measure. That is because nothing untoward or improper has occurred that would serve as a
19 basis upon which any votes should be disqualified. In fact, the sole instance of “bad faith
20 solicitation,” raised in the Motion is an advertisement that was published ***on the first day of voting***
21 on Debtors’ Plan— thus *after* this court approved the disclosure statement and transmittal of the
22 statement and plan was underway. Motion p. 4, fn. 2. It seems the Movant’s qualms -aside from that
23 he is strongly unhappy with the Plan - is that one solicitation did not wait until perhaps day 2 or day
24 7 of voting to be published. Such an argument is little more than semantics and is not what is
25 required under the law. The bottom line is all solicitations occurred only after the disclosure
26 statement was approved and transmitted alongside the Plan to fire victims.

1 Everyone has right to be involved in this bankruptcy process – especially individual fire
2 victims. To that end, each individual party has a responsibility to accurately represent the facts. SLF
3 applauds Movant’s efforts in expressing his strong views and lack of support for the Plan, but
4 Movant is unfortunately misinformed on the facts. Repeatedly and incorrectly, Movant states that
5 provisions in the RSA prevent Fire Claimant Professionals from explaining the pros and cons of
6 Debtors’ Plan. But he is wrong. Moreover, when Movant argues that the Fire Claimant Professionals
7 are violating rules of professional conduct for failing to apprise clients of the same he is wrong.
8 Without exception, SLF has gone out of its way to make sure its clients are exposed to the pros and
9 cons of the Plan– *including* Movants’ views. In fact, Movant organized a townhall where the
10 following speakers engaged in an active debate with respect to the pros and cons of the Plan: Mr.
11 Mikal Watts, Mr. Gerald Singleton, Ms. Bonnie Kane, Mr. Francis Scarpulla, Professor Jason Meek
12 of Berkeley Law, Professor Jared Ellias. Mr. Singleton then publicized the debate on the firm’s
13 website so SLF clients could see for themselves both sides. Simply stated, all information is shared
14 with SLF clients and while Movant can say he does not like the Plan it is not appropriate to make
15 inaccurate and false statements about SLF withholding information from its clients. Plainly put,
16 Movants *factually inaccurate views cannot and should not be disseminated* which includes Movants
17 repeated efforts to claim Fire Claimant Professionals are not adequately advising their clients.

18 Furthermore, SLF takes issue with Movant and other less informed attorneys repeatedly
19 disseminating information about other ideas as if they are real plans that can be voted on. Time and
20 time again, Movant and at least one other attorney who has appeared before this court, have spoken
21 at townhalls and public debates of an alternate customer owned utility plan - that is not a court
22 approved plan of reorganization nor one subject to a disclosure statement. Neither Movant nor
23 anyone else cannot solicit victims and discuss plans that are not “on the table.” At the end of the day,
24 there are no other plans of reorganization that have been submitted to the bankruptcy court let alone
25 approved for dissemination. Representing to the public and media otherwise is wrong.

26 At the end of the day, SLF wants its clients to have all factually accurate information at their
27 fingertips in order to make an informed decision on Debtors’ Plan. Thus, SLF is at a loss to
28

1 understand Movants' arguments that fire victims are not being given both sides on the Plan when at
2 least with respect to SLF **they are.**

3 **CONCLUSION**

4 For the reasons set forth above, the SLF Fire Victim Claimants respectfully request that the
5 Court deny the Motion.

6 Dated: April 22, 2020

Respectfully submitted,

7 MARSHACK HAYS, LLP

8 By: /s Richard Marshack
9 Richard A. Marshack, Esq.
10 D. Edward Hays, Esq.
Laila Masud, Esq.

11 SINGLETON LAW FIRM, APC

12 By: /s Gerald Singleton
13 Gerald Singleton, Esq.
14 Gary LoCurto, Esq.
Attorneys for SLF Fire Victim Claimants